

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 6041 of 2007

Date: 09.08.2007

Between:

S. Konda Babu, S/o Apparao, aged 45 years,
Occ: Senior Operation Technician, Emp.No.982728,
Operation Dept., HPCL-VR, Visakhapatnam,
R/o # 39/11/5, Muralinagar, Visakhapatnam – 7.

..... PETITIONER

AND

The Disciplinary Authority,
Executive Director, HPCL,
Visakh Refinery, Visakhapatnam and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 6041 of 2007

Order:

Questioning the enquiry proceedings dated 30.12.2006 of the 2nd respondent-Enquiry Officer, the petitioner filed the present writ petition.

The limited issue raised by the petitioner in this writ petition, is that despite the notice of his illness, the 2nd respondent-Enquiry Officer proceeded to examine one V.S. Rao as Management Witness (MW.1) on 30.12.2006 and closed his evidence on the same day. On coming to know of the same, he immediately made a representation dated 31.01.2007 seeking to recall the said witness for cross-examination with reference to charge No.5, but the same was rejected by the 2nd respondent-Enquiry Officer. Hence, he filed the present writ petition.

This Court, while admitting the writ petition on 26.03.2007, passed the following interim order in W.P.M.P. No. 7718 of 2007.

“There shall be interim direction to the respondents to recall M.W.1 and permit the petitioner to cross-examine him. If for any reason MW.1 is not recalled, his evidence shall be eschewed for the purpose of this enquiry.”

A detailed counter affidavit is filed by respondent No.1. Learned Standing Counsel for respondent No.1 reiterating the counter averments submits that the witness MW.1 already left the country, and even though the petitioner is well aware that after 30.12.2006 the witness MW.1 will not be available in the country as he is leaving the country, yet he did not chose to attend the enquiry on 30.12.2006 and cross-examine the said witness, and so the petitioner himself is responsible for the same and the delay if any is attributable to the petitioner only. He, however, submits that the petitioner can raise all the objections, including the objections raised in the present writ petition with regard to enquiry

proceedings dated 30.12.2006, after the final order is passed, and at this stage, there is no need to interfere with the enquiry proceedings.

At this stage, learned counsel for the petitioner agreed to dispose of the writ petition with a liberty to raise all the objections, including the objection raised in this writ petition with regard to enquiry proceedings dated 30.12.2006, after the final order is passed, before the appropriate authority.

Having regard to the facts and circumstances of the case and in view of the agreed stand taken by the learned counsel for the petitioner, I deem it appropriate to pass the following order.

The petitioner is at liberty to raise all the objections, including the objection raised in this writ petition with regard to enquiry proceedings dated 30.12.2006, after the final order is passed, before the appropriate authority.

With the above observations, the writ petition is dismissed. No costs.

N.V. RAMANA, J.

Date: 09.08.2007

Nsr